

ENTERED

May 26, 2025

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISIONCLIFFORD F. TUTTLE, JR., *et al.*,

Plaintiffs,

VS.

CITY OF HOUSTON, *et al.*,

Defendants.

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CIVIL ACTION NO. 4:21-CV-00270

ORDER

Before the Court is Defendant Felipe Gallegos's ("Gallegos") Partially Unopposed Motion to Stay Pending Appeal to the Fifth Circuit Court of Appeals (the "Motion to Stay"). Doc. #443. On April 15, 2025, Gallegos appealed this Court's March 31, 2025 Order which, among other things, denied Gallegos's qualified-immunity defense. Doc. #438; Doc. #440. The Motion to Stay "seeks a stay of all proceedings," including the trial setting, "in this Court related to those aspects of the case which are currently on appeal, *i.e.*, the claims against Gallegos and his defense of qualified immunity." Doc. #443 at 2. However, "[t]o the extent there may be matters related to the case that do not implicate aspects of the case involved in Mr. Gallegos's appeal, Mr. Gallegos also would not oppose the Court continuing to exercise jurisdiction over such matters." *Id.*

All parties are unopposed the Motion to Stay to the extent it continues the trial setting in this case until after the proceedings related to Gallegos's appeal have been resolved. *Id.* However, according to the Motion to Stay, Plaintiffs are opposed to a "complete" stay of this case. *Id.* Plaintiffs have not responded to the Motion to Stay or otherwise explained the extent of their opposition, and the deadline to do so has passed.

Because the Court has denied Gallegos's defense of qualified immunity and he has appealed that decision, the Court hereby GRANTS the Motion to Stay (Doc. #443). *See Carty v. Rodriguez*, 211 F. App'x 292, 293 (5th Cir. 2006) ("A district court's denial of a defense of qualified immunity is immediately appealable, and once an appeal is filed, the district court is divested of its jurisdiction to proceed against that defendant."). As such, the docket call and trial setting in this case is STAYED and continued to a date to be determined after proceedings related to Gallegos's pending appeal are concluded. The aspects of the case involved in Gallegos's appeal are also hereby STAYED. Because the Court has granted the Motion to Stay and continued the trial in this case, the numerous motions in limine (Doc. #365; Doc. #369; Doc. #370) are all DENIED without prejudice to refiling once trial is reset.

It is so ORDERED.

MAY 21 2025
Date



The Honorable Alfred H. Bennett
United States District Judge